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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

MICHAEL S. BROWETT

Plaintiff,

CASE NO.: 3:16-cv-00181-RCJ-WGC

vs.

11 THE CITY OF RENO, a municipality  
12 organized and existing under the laws of the  
13 State of Nevada, and DOES 1 through 20,  
14 inclusive,

**CASE MANAGEMENT ORDER**

Defendants.

/

**JOINT CASE MANAGEMENT REPORT**

17 Plaintiff Michael S. BROWETT and Defendant CITY OF RENO, by and through their  
18 undersigned counsel, hereby submit their first Joint Case Management Report in accordance with  
19 this Court's Minute Order filed on April 26, 2016 (Doc. # 7).

**1. Nature of the case:**

22 This case involves allegations of interference with Plaintiff's FMLA rights established by  
23 29 C.F.R. §825.100, *et seq.* BROWETT alleges that CITY OF RENO improperly interjected  
24 elements of his FMLA leave into the promotion interview process and then used his FMLA leave  
25 as a negative factor in denying his promotion to Lieutenant with the Reno Police Department in  
26 violation of 29 U.S.C. § 2601, *et seq.*

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1                   **2.       Factual and legal disputes:**

2                   CITY OF RENO generally denies all material allegations and claims that it had  
3 legitimate business reasons for denying BROWETT the promotion.

4                   **3.       Jurisdiction:**

5                   Jurisdiction is proper in this Court pursuant to 28 U.S.C. §1331 because this matter  
6 involves a federal question. This matter is brought pursuant to 29 U.S.C. §2617 of The Family  
7 Leave Act 29 U.S.C. §§2601-2654. This Court also has supplemental jurisdiction over any state  
8 law claims pursuant to 28 U.S.C. §1337(a).

9                   It is the CITY OF RENO's position that the Family Medical Leave Act (FMLA) does not  
10 provide a private federal cause of action for an alleged discriminatory violation of an employer's  
11 benefit plan. Plaintiff cannot recover damages under FMLA, 29 C.F.R. §825.700, for alleged  
12 discrimination in the administration of the City of Reno's paid leave policy because a private  
13 contractual agreement does not provide federal courts with jurisdiction.

14                   It is CITY OF RENO's further position that Plaintiff's claim for interference damages in  
15 paragraph 42 of the complaint is not justiciable or ripe for adjudication and the court is without  
16 jurisdiction to hear the claim.

17                   **4.       Additional Parties:**

18                   None identified at this time.

19                   **5.       Statement of expected additional parties or amended pleadings:**

20                   Neither Party currently expects to add any additional party or to file an amended  
21 pleading.

22                   **6.       Pending Motions:**

23                   None.

24                   **7.       Contemplated Motions:**

25                   CITY OF RENO reserves the right to file a Fed. R. Civ. P. Rule 56 motion for summary  
26 judgment upon the conclusion of discovery.

27                   **8.       Related Cases:**

28                   None.

## 9. Discovery:

**a. Extent, nature and location of discovery:**

All discovery is currently anticipated to be accomplished locally. It is currently believed that all relevant documents are maintained and in the possession of CITY OF RENO, and all anticipated witnesses are either current or former employees of CITY OF RENO. Plaintiff's expert consultants and witnesses are all residents of this jurisdiction.

**b. Suggested revisions to discovery limitations:**

None.

c. **Deposition time limits:**

The Parties do not currently anticipate the need for any limits on the time to depose any witness and do not expect any deposition to exceed the current prescription of 7 hours.

## **10. Electronically stored information:**

The majority of documents identified for discovery are believed to be electronically stored by CITY OF RENO, and the Parties do not currently anticipate any difficulties in identifying and producing those records.

## 11. Issues of privilege or work product:

The Parties are currently negotiating the elements of a Stipulated Protective Order that will address anticipated issues of privilege and work product involved with the anticipated discovery in this matter. Once agreed upon, the Stipulated Protective Order will be submitted to the Court for consideration.

## 12. Discovery Plan and Scheduling Order:

Concurrent with this Case Management Report, the Parties have submitted a Stipulated Discovery Plan and Scheduling Order for the Court's approval.

### **13. Proposed Scheduling Order Dates:**

- a. **Discovery Cutoff:** October 19, 2016
- b. **Deadline to Amend Pleadings and Add Parties:** July 21, 2016
- c. **Expert Disclosures:** August 19, 2016
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- Rebuttal Expert Disclosures:** September 19, 2016

**d. Deadline for Dispositive Motions:** November 18, 2016

**6. Filing of Pretrial Order:** December 19, 2016

THE DEADLINES SUBMITTED HEREIN ARE IN COMPLIANCE WITH LR 26-1(e).

**14. Jury trial requested:**

Yes. But it is the CITY OF RENO's position that Plaintiff's prayer for equitable relief should not be determined by a jury.

**15. Estimated length of trial:**

## Four Days.

## 16. Settlement:

The Parties' undersigned counsel hereby certify that they met at the Rule 26(f) Conference, discussed the possibility of settlement, and agreed that settlement is currently not possible.

## **17. Other matters to aid the Court:**

None at this time.

DATED this 9<sup>th</sup> day of May, 2016.

By: /s/ William E Cooper  
WILLIAM E. COOPER  
Deputy City Attorney  
Nevada State Bar # 2213  
P.O. Box 1900  
Reno, Nevada 89509  
*Attorney for Defendant*

By: /s/ Jack D Campbell  
JACK D. CAMPBELL  
Attorney at Law  
Nevada State Bar #4938  
4790 Caughlin Parkway, #420  
Reno, Nevada 89519  
*Attorney for Plaintiff*

## IT IS SO ORDERED

Dated this 16<sup>th</sup> day of May, 2016.

Walter J. Cobb

William G. Cobb  
United States Magistrate Judge

1  
**CERTIFICATE OF SERVICE**

2 Pursuant to FRCP 5(b), I certify that I am an employee of Jack D Campbell,  
3 Attorney at Law, and that on this date, I am serving the foregoing document(s) on the  
4 party(s) set forth below by:

5 \_\_\_\_\_ Placing an original or true copy thereof in a sealed envelope placed for collection  
6 and mailing in the United States Mail, at Reno, Nevada, postage prepaid,  
7 following ordinary business practices.

8 \_\_\_\_\_ Personal delivery.

9 \_\_\_\_\_ CM/ECF electronic filing service

10 \_\_\_\_\_ Facsimile (FAX).

11 \_\_\_\_\_ Federal Express or other overnight delivery.

12 \_\_\_\_\_ Reno/Carson Messenger Service.

13 addressed as follows:

14  
15 CITY OF RENO  
1 E. 1<sup>st</sup> Street, 15<sup>th</sup> Floor  
16 Reno, NV 89501

17  
18 DATED this 9th day of March, 2016.

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20 \_\_\_\_\_ /s/ Jack D Campbell  
21 \_\_\_\_\_ JACK D CAMPBELL  
22 Jack D Campbell, Attorney at Law  
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